

Section 11 of the Retailers' Occupation Tax Act, 35 ILCS 120/11, sets forth provisions for the confidentiality of taxpayer information. (This is a GIL.)

December 2, 2002

Dear Xxxxx:

This letter is in response to your letter dated July 5, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

The purpose of this letter is to request your assistance in attempting to resolve a 1998 sales tax issue. I originally contacted you regarding this issue in a letter dated 2/22/01. You responded to my letter with a General Information Letter, dated 5/3/01, copy enclosed.

History

To refresh your memory, COMPANY paid \$\$ of sales tax on # gallons of Jet-A-Fuel that it purchased from BBB during the period 4/30/98 to 6/5/98. COMPANY applied for a certificate of resale, but it did not become effective until 6/12/98. COMPANY subsequently resold this jet fuel to CCC. CCC collected and remitted sales tax on this same fuel when it later resold it to other parties. Therefore, sales tax on this fuel was remitted to the Department twice.

Three representatives from COMPANY wrote to BBB (within the statute of limitations: 12/15/98, 4/20/99, and 5/10/01) requesting that it (1) file for a sales tax credit and (2) refund the credit amount to COMPANY. We provided to BBB documentation that the Jet-A-Fuel was resold and also copies of Illinois statutes that, in our opinion, entitled us to a refund. The response from BBB has consistently been that, while they have tried to obtain a refund on our behalf, the Department refuses to issue a credit because COMPANY did not have a sales tax exemption at the time of the purchases.

Questions

In your letter you stated that the Department has no authority to compel the seller to file a claim for credit, and whether or not the seller refunds to the purchaser the taxes paid, and files a claim for credit with the Department, is a private business matter. While this may be a private business matter, can the Department at least tell us if BBB ever filed an amended sales tax return, with respect to these goods, that was turned down by the Department?

Additionally, if an amended return was actually filed by BBB, and the Department turned it down, can you please provide me with the name of the Department employee that turned down the refund request? I would like to have the chance to speak with that employee to explain our facts and discuss how Section 2c of the Retailer's Occupation Tax Act (35 ILCS 120/2c) may apply thereto.

Finally, is there any course of action that COMPANY can pursue, with regards to the Department, to further our efforts to obtain a sales tax refund?

Please contact # if you would like to discuss this matter. Thank you.

We are sorry that we are unable to provide you the information requested. The confidentiality provisions of the sales tax acts govern our treatment of sales tax returns. Section 11 of the Retailers' Occupation Tax Act, 35 ILCS 120/11, provides in part as follows:

"All information received by the Department from returns filed under this Act, or from any investigation conducted under this Act, shall be confidential, except for official purposes, and any person who divulges any such information in any manner, except in accordance with a proper judicial order or as otherwise provided by law, shall be guilty of a Class B misdemeanor."

While Section 11 authorizes the Director of Revenue to publish or make available to the public the names and addresses of persons filing returns under the Act, it does not authorize the Director to report the content of a taxpayer's return to another taxpayer without the consent of the taxpayer.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

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